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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

No. 1:20-cv-00619-BAM

STIPULATION AND ORDER FOR  
EXTENSION TO FILE OPPOSITION TO  
PLAINTIFF'S OPENING BRIEF

ROXANNE BARRY,  
Plaintiff,  
v.  
KILOLO KIJAKAZI,<sup>1</sup>  
Acting Commissioner of Social Security,  
Defendant.

The parties stipulate through counsel that Defendant, the Commissioner of Social Security (the "Commissioner"), shall have an extension of time to file his opposition to Plaintiff's opening brief in this case. In support of this request, the Commissioner respectfully states as follows:

1. Primary responsibility for handling this case has been delegated to the Office of the Regional Chief Counsel, Region IX, in San Francisco, California (the "Region IX Office").

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<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1       2.     Defendant's response to Plaintiff's opening brief is currently due September 13,  
2 2021. Defendant has not previously requested an extension of time for this deadline.

3       3.     The Region IX Office currently handles all district and circuit court litigation  
4 involving the Social Security program arising in Arizona, California, Hawai'i, Nevada, and  
5 Guam.

6       4.     The Region IX Office employs 47 staff attorneys, of whom 27 handle civil  
7 litigation involving the Social Security program in these eight assigned jurisdictions, at least part-  
8 time. In addition to this "program" litigation, the 27 staff attorneys in the Region IX Office  
9 maintain other workload responsibilities, with most of them dedicating 40 percent or more of  
10 their time to these workloads. The Region IX Office provides a full range of legal services as  
11 counsel for the Social Security Administration, in a region that covers four states (including the  
12 most populous state in the nation) and three territories. These other workloads include  
13 employment litigation; civil rights investigations; bankruptcy matters; and requests for legal  
14 advice on wide-ranging topics, including employee conduct and performance, reasonable  
15 accommodation, hostile work environment, ethics, Privacy Act and disclosure, torts, property,  
16 and contracts.

17       5.     The undersigned attorney has 19 briefs due in district court cases over the next 30  
18 days, including three briefs due on September 13, 2021, as well as additional non-briefing work.  
19 An ordinary volume of district court merits briefs for the undersigned would be five to seven  
20 briefs per month in addition to non-briefing work. As such, the current volume of merits brief  
21 deadlines is two to three times what is normal.

22       6.     Due to the volume of the overall workload within the Region IX Office, neither the  
23 undersigned attorney nor another attorney in the Region IX Office anticipate being able to  
24 complete briefing by the current due date of September 13, 2021. Therefore, Defendant seeks an  
25 extension of 30 days, until October 13, 2021 to respond to Plaintiff's opening brief.

26       7.     This request is made in good faith and is not intended to delay the proceedings in  
27 this matter.

1 WHEREFORE, Defendant requests until October 13, 2021, to file his opposition to  
2 Plaintiff's opening brief.

3  
4 Respectfully submitted,

5  
6 DATE: August 30, 2021

/s/\_ *Denise Bourgeois Haley*\*  
7 DENISE BOURGEOIS HALEY  
Attorney for Plaintiff  
8 (\* approved via email on 8/25/21)

9  
10 DATE: August 30, 2021

PHILLIP A. TALBERT  
11 Acting United States Attorney  
By *s/ Marcelo Illarmo*  
MARCELO ILLARMO  
Special Assistant United States Attorney  
12  
13 Attorneys for Defendant

14 ORDER

15 Pursuant to stipulation, and good cause appearing, Defendant's request for an extension  
16 of time to file his opposition to Plaintiff's opening brief is GRANTED. Defendant shall file his  
17 opposition brief on or before October 13, 2021. All other deadlines in the Court's Scheduling  
18 Order are modified accordingly.

19 IT IS SO ORDERED.

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21 Dated: August 31, 2021

/s/ *Barbara A. McAuliffe*  
22 UNITED STATES MAGISTRATE JUDGE  
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